HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

MISCELLANEOUS APPEAL NO.269/2006

Appellants:
Non-applicants

1) Gorelal Kewat,
S/o Shri Sakharam,
caste – Kewat,
aged about 29 years,
resident of village Manikpur,
P.S. Torwa, Dist. Bilaspur,
(Driver of the Truck No.MP 20G/5825).

2) Rajesh Pandey,
aged about 45 years,
s/o Shri R.P. Pandey,
Ex-Mayor, Bilaspur,
R/o Gondpara,
Tah & Dist. Bilaspur (CG)
(Owner of the Truck No.MP 20G 5825).

Vs.

Respondents:
Applicants

1) Smt. Ram Bai Gond,
Widow of Late Manharan Gond, aged about 23 years.

2) Ganga Bai Gond,
aged about 4 months,
daughter of Manharan Gond,
Minor, through natural guardian mother Smt. Ram Bai.

Both are resident of village Parsahu, P.S. Seepat, Tah. Masturi, Dist. Bilaspur.

Present:
Shri Harish Chandra Verma, Counsel for the appellants.

ORAL ORDER
(passed on 8th November, 2006)

The following oral order of the Court was passed by Vijay Kumar Shrivastava, J.

This is an appeal filed under Section 173 of the Motor Vehicles Act, (henceforth, "the Act") against the award dated 26/06/2006 passed by 10th Additional Motor Accident Claims Tribunal, Bilaspur, whereby a sum of Rs.3,44,000/- has been granted towards compensation to respondents against the appellants.

On 16/04/2002 Manharan died as a result of accident caused by vehicle bearing Truck No. MP 20G 5825. Respondents are the legal heirs of deceased Manharan. The said vehicle was owned by appellant No.2 and at the time of accident the same was driven by appellant No.1. Both the respondents assessing their claim filed an application under Section 166 of the Act for grant of compensation.

Appellants No. 1 & 2 although admitted that the vehicle was registered in the name of appellant No.2 and the driver of the vehicle was appellant No.1, but refuted the claim on the ground that the accident did not take place with their vehicle bearing Truck No. MP20-G 5825.

Learned Tribunal after appreciating the evidence held that as a result of rash and negligent driving of Truck No. MP20-G 5825 by appellant No.1, the accident took place and Manharan met with an accident and died. Therefore, the award has been passed against both the appellants for a sum of Rs.3,44,000/-.

During arguments, learned counsel for the appellants urged that learned Tribunal failed to appreciate the evidence for recording a finding that appellant No.1 was driving the vehicle rashly and negligently and caused the accident which resulted the death of Manharan.

We have gone through the award passed by the Tribunal, perused the reasons assigned by the Tribunal. Admittedly, appellant No.1 was the driver and appellant No.2 was the owner of the vehicle. From the

documents Ex,A 1 to A8 relating to criminal case, it was found that appellant No.1 driving the Truck No.MP20-G 5825 caused accident and as a result of that accident Manharan died. From those documents it was also clear that appellant No.1 was driving the vehicle rashly and negligently.

Admittedly on the date of accident also appellant No.1 was the driver and he was present with the fateful vehicle on the spot. From the oral evidence of Rambai and Heera Ram as also from the documents it was established that Manharan died as a result of vehicle accident. No substantial material was adduced by the appellants to establish that the appellant No.1 has been falsely implicated in the criminal case registered against him for rash and negligent driving and causing death of Manharan.

Taking into account all these facts, we are unable to accept the contention of learned counsel for the appellants that the trial Court failed to appreciate the evidence. This is a finding of fact and the Tribunal after evaluating documentary and oral evidence has recorded the finding against appellant No.1. There is no perversity in the finding of the Tribunal, which may call for interference by this Court.

In the result, the appeal being devoid of merit, is liable to be dismissed and is accordingly dismissed in limine.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge

Raju